

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**

CIRCUIT COURT AT PORT BLAIR, A & N ISLANDS

OA No. 351/00062/2015

Date 12-10-2015

PRESENT:

**THE HON'BLE MR JUSTICE G. RAJASURIA, JUDICIAL MEMBER
THE HON'BLE MS JAYA DAS GUPTA, ADMINISTRATIVE MEMBER**

SMT VIMALA DEVI
V/S
EDUCATION (A&N ADMINISTRATION)

For the Applicant : Mr G.B.Kumar
For the respondents M/S. S.K.MANDAL &
S.C.MISHRA, COUNSEL.

ORDER

JUSTICE G. RAJASURIA, JM

Heard both. This O.A has been filed seeking the following
reliefs :

- a) An order be passed directing the respondent No.5 to immediately rescind, recall, withdraw and cancel the penal rent bill No.07 dated 09.11.2011 and bill No.11 dated 20.11.2013 whereby directed the applicant to pay an amount of Rs.8,24,788/- and Rs.1,05,179/- respectively being the penal rent for the period from 21.07.2989 to 02.09.2013 issued by the Executive Engineer, Port Blair (respondent No.6).
- b) An order be passed directing the respondent No.5 to immediately release the pension and other retirement benefits to the applicant with interest on and from 31.07.2013 from the date of retirement of the applicant in terms of the CCS (Pension) Rule, 1972.
- c) An order be passed directing the respondent authorities to transmit the original records of the case before this Hon'ble court, so that after perusing



the same conscionable justice may be rendered to the applicant.

d) Any other relief or reliefs, order or orders, direction or directions as your Honour deem fit and proper."


(extracted as such)

2. Learned counsel for the applicant would submit that the applicant's husband died in harness, whereupon she was given appointment on compassionate ground, and she continued to occupy the quarter allotted to her husband after his death and even after compassionate appointment was given to her. Subsequently, the authority issued notice calling upon her to pay penal rent for the unauthorized occupation of the quarters, because she was not allotted the said quarter. She paid the normal rent and not the penal rent for the quarters because she disputed the correctness and legality on the part of the respondents in demanding penal rent. She also vacated on 2.9.2015 the quarters after her retirement. While so she was not paid her retirement benefits including pension.

The Learned counsel would submit that whatever might be the dispute, the applicant is entitled to the provisional pension subject to finalization of the dispute of penal rent.

3. Per contra, the learned counsel for the respondents would pray for time to file a detailed reply in this OA.

Consequent upon to the query raised by this Bench of the CAT as to why provisional pension has not been paid pending finalization of the dispute for recovery of penal rent, the learned



counsel for the respondents would submit that necessary order might be passed.

4. The point for consideration, as of now is as to whether the applicant is entitled to provisional pension at least subject to the finalization of the dispute concerning the recovery of penal rent.

5. We want to make it clear that pending any proceeding, provisional pension should be paid by the Government in favour of the applicant. It is for the President of India to deprive the applicant of her right to get pension or part of the pension and no authority less than President of India can touch the right of the applicant to receive pension. In such a case we are of the considered view that respondent authority concerned may not be correct in withholding the pension. Subject to taking action as against the applicant for recovery of the penal rent as per law and the right of the applicant to resist it as per law, the respondent authority is expected to pay the provisional pension to the Applicant. As such direction is given to the respondents to pay the provisional pension pending finalization of the dispute concerning recovery of penal rent, within a period of 3 months from the date of receipt of a copy of this order.

6. O.A is accordingly disposed of. No costs.

(Ms. Jaya Das Gupta)
Admn. Member

(Justice G. Rajasuria)
Judicial Member